

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

JOHN JORDAN,

Plaintiff, No. CIV S-03-1820 LKK KJM P

vs.

CAL A. TERHUNE, et al.,

Defendants. ORDER

On December 8, 2005, the Magistrate Judge issued an order finding service appropriate for some, but not all, of the defendants listed in plaintiff's amended complaint.

After receiving an extension of time, plaintiff filed objections to that order on January 5, 2006.

I. Standards For Motions To Reconsider

Although motions to reconsider are directed to the sound discretion of the court, Frito-Lay of Puerto Rico, Inc. v. Canas, 92 F.R.D. 384, 390 (D.C. Puerto Rico 1981), considerations of judicial economy weigh heavily in the process. Thus Local Rule 78-230(k) requires that a party seeking reconsideration of a district court's order must brief the "new or different facts or circumstances were not shown upon such prior motion, or what other grounds exist for the motion." The rule derives from the "law of the case" doctrine which provides that

1 the decisions on legal issues made in a case “should be followed unless there is substantially
2 different evidence . . . new controlling authority, or the prior decision was clearly
3 erroneous and would result in injustice.” Handi Investment Co. v. Mobil Oil Corp., 653 F.2d
4 391, 392 (9th Cir. 1981); see also Waggoner v. Dallaire, 767 F.2d 589, 593 (9th Cir. 1985).

5 Courts construing Federal Rule of Civil Procedure 59(e), providing for the
6 alteration or amendment of a judgment, have noted that a motion to reconsider is not a vehicle
7 permitting the unsuccessful party to “rehash” arguments previously presented, or to present
8 “contentions which might have been raised prior to the challenged judgment.” Costello v. United
9 States, 765 F. Supp. 1003, 1009 (C.D. Cal. 1991); see also F.D.I.C. v. Meyer, 781 F.2d 1260,
10 1268 (7th Cir. 1986); Keyes v. National R.R. Passenger Corp., 766 F. Supp. 277, 280 (E.D. Pa.
11 1991). These holdings “reflect[] district courts’ concerns for preserving dwindling resources and
12 promoting judicial efficiency.” Costello, 765 F. Supp. at 1009.

13 In the instant action, plaintiff has done nothing more than complain that the
14 magistrate judge failed to order service on a list of defendants “without legal reason or
15 justification.” This is not a sufficient basis for a motion for reconsideration.

16 II. Untimely Motion For Reconsideration

17 On March 30, 2006, plaintiff filed a second request for reconsideration of that
18 order. Local Rule 72-303(b), states “rulings by Magistrate Judges shall be final if no
19 reconsideration thereof is sought from the Court within ten court days . . . from the date of
20 service of the ruling on the parties.” E.D. Local Rule 72-303(b). Plaintiff’s request for
21 reconsideration of the magistrate judge’s order of December 7, 2005 is therefore untimely.

22 Accordingly, IT IS HEREBY ORDERED that plaintiff’s January 5, 2006 (docket
23 no. 68) and March 30, 2006 requests for reconsideration (docket no. 83) are denied.

24 DATED: April 24, 2006.

25 /s/Lawrence K. Karlton
26 UNITED STATES DISTRICT JUDGE
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